

1 MS. SCHWARTZ: Good afternoon. Donna Schwartz,
2 Research Director for the U.S. Advisory Commission on
3 Intergovernmental Relations. And I am here today with my
4 colleague, Dr. Amy Pool from American University.

5 This is an overview or preliminary report, actually, at
6 this stage since it's not in our research. I would like to thank
7 the Commission and its members for inviting me. I am going to
8 try and summarize because I am afraid we got told we have a half
9 an hour. And so I am going --

10 CHAIRPERSON JAMES: Can I ask you --

11 MS. SCHWARTZ: Yes. I will.

12 CHAIRPERSON JAMES: Can I ask you to pull that
13 microphone very close to you?

14 MS. SCHWARTZ: Is this better? All right.

15 CHAIRPERSON JAMES: Try to tilt it up just a little
16 bit.

17 MS. SCHWARTZ: ACIR signed for that revised research
18 proposal with the National Gambling Study Commission. It was
19 approved in June of last year. And it has or it included three
20 parts: compilation of data, basically a database of federal,
21 state, local, and tribal gaming laws and regulations, which will
22 be ready in a couple of months; a compilation, then preparation
23 of a report that outlines gaming regulation in the United States;
24 and a comparative report detailing differences and similarities
25 between those regulations, tribal and industry gaming.

26 Following this approval, we solicited proposals
27 searching for an outside consultant and selected a group headed

1 by Dr. Amy Pool of the Department of Justice at the American
2 University.

3 We have concluded based on the research budget and the
4 time frame that information about regulatory practices in the
5 gaming industry would have to be obtained through the
6 administration of a telephone survey to sample universal gaming
7 establishments.

8 And in July, our methodologist, Dr. Ludley of George
9 Mason University, who is sitting right behind me, thought about
10 the selection of a sample based upon the prevalence of form of
11 gaming, dollar volume, and geographical parameters. At the same
12 time, we started working on survey instruments.

13 In October of last year, ACIR was informed by the
14 National Gambling Impact Study Commission that the commissioners
15 wished to redirect this research and focus primarily on tribal
16 gaming.

17 COMMISSIONER LOESCHER: Point of order, Madam Chair.

18 CHAIRPERSON JAMES: Certainly.

19 COMMISSIONER LOESCHER: I have a problem. I've read
20 this report, and I was not around. I must have missed something.
21 The Commission didn't ask that you redirect your efforts on
22 tribal gaming. How does this happen?

23 MS. SCHWARTZ: We were formally asked, and we had
24 negotiations --

25 COMMISSIONER LOESCHER: I'd like to have clarification
26 from the Chair and for management as to what is occurring here.

27 COMMISSIONER WILHELM: Madam Chair?

1 CHAIRPERSON JAMES: Certainly, Commissioner Wilhelm.

2 COMMISSIONER WILHELM: If I may comment on Commissioner
3 Loescher's point? The second page of the written testimony from
4 Ms. Schwartz, as Commissioner Loescher was just indicating, says
5 in mid October 1998, ACIR was informed by NGISC that the
6 commissioners wish to redirect the research and focus the survey
7 primarily on tribal gaming.

8 As a member of the Research Subcommittee, I wish to say
9 that from my perspective, that's not true. What is true is that
10 the enabling statute says that we were directed as a Commission
11 to -- "shall contract" is the term -- with the ACIR for, quote, a
12 thorough review and cataloguing of all applicable federal, state,
13 local, and Native American tribal laws, regulations, and
14 ordinances that pertain to gambling in the United States as well
15 as some other functions.

16 At some point in the late Summer or early Fall of 1998,
17 the Research Subcommittee became aware that the ACIR proposed to
18 do only a sampling of tribal gaming laws, ordinances, and
19 regulations.

20 And after considerable discussion, we instructed the
21 Executive Director of the Commission -- and my recollection is
22 that the Research Subcommittee did this unanimously, I believe --
23 to significantly expand their examination of laws, ordinances,
24 and regulations affecting the tribes. But never, to my
25 recollection, did the subcommittee in any way, shape, or form
26 suggest, as this statement says, that ACIR should, quote, "focus
27 the survey primarily on tribal gaming," unquote.

1 Unfortunately, we're handicapped by the absence of Dr.
2 Kelly, whom I believe probably was involved in those
3 conversations. But, at least with respect to the members of the
4 subcommittee or speaking at least for myself, -- and I think my
5 memory is clear on this point -- we never suggested to ACIR that
6 it should not do the job that it is directed by the statute to
7 do. I am, frankly, shocked to read that statement.

8 MS. SCHWARTZ: Mr. Wilhelm, let me comment, if I may.
9 The collection or the database of laws and regulation is
10 comprehensive. And this statement does not refer to it. It
11 refers to the survey, which deals in gaming practices, which was
12 something we contracted to do and is not part of what you were
13 instructed to do wholly by the statute as far as I recall the
14 statute.

15 This is the survey of gaming practices. It does not
16 refer to the collections of laws and regulations, which is on the
17 database and which is separate and complete.

18 CHAIRPERSON JAMES: Well, I am very disturbed by the
19 sentence at the top of Page 2 that says you were informed that
20 commissioners wish to redirect the research and focus primarily
21 on tribal gaming.

22 I am not aware of any such redirection, and I would ask
23 for some help from the Research Subcommittee on that; in
24 particular, the chair. Can you shed any light on that?

25 COMMISSIONER MCCARTHY: When we were discussing this --
26 I'm trying to remember the date.

1 MS. SCHWARTZ: November 9th or 10th or 11th, one of
2 those, you were at a meeting.

3 CHAIRPERSON JAMES: This was in October, not November.

4 MS. SCHWARTZ: No. October was the first. Dr.
5 McCarthy and I did not talk about this until November, when the
6 Commission was meeting. So I'm just referring to a conversation
7 we had.

8 COMMISSIONER McCARTHY: To try to clarify this a little
9 bit, I don't think we were changing anything in regard to federal
10 or state governments that we had agreed to do up until those
11 discussions.

12 I think the third we were looking at in those
13 discussions was that part which then had been described as tribal
14 and local governments in what I have received from you.

15 You may recall I was asking local governments: Are we
16 looking at cities and counties and what ordinances they're
17 involved in because you may recall my saying I think there were
18 only a handful of instances where a state delegated a lot of
19 authority down to local governments, cities, or counties to
20 really be beyond the building codes and the enforcement of those
21 things?

22 So I think what we did was de-emphasize whatever role
23 there might be for cities and counties because it was eligible in
24 any event. And I think the thing we discussed was of 305 tribes
25 -- I hope I recall the number correctly -- that the total list of
26 tribes that you were going to try to compile tribal government

1 laws and so on, we were discussing back and forth how many of
2 those could be more deeply analyzed and looked at.

3 And we as I recall arrived at the number 140. And that
4 was going to be broadly representative, but it was going to be
5 weighted. And I think your suggestion was a good one. It was
6 going to be weighted to make sure we included the larger
7 revenue-generating tribal government casino operations. Now,
8 that's what I recall.

9 So the question before us here I think --

10 MS. SCHWARTZ: Perhaps, but we changed the rest of the
11 sample, if you'll recall, at the same time. Where the sample was
12 originally going to be a sample that represented as far as
13 surveying, making calls, et cetera, it was originally going to be
14 around 250, which may have been slightly less because Dr. Peter
15 Reuter suggested that was too many, that were divided among all
16 forms of gaming basically on the base of their relative
17 contribution. We have changed this to where we were going to
18 survey.

19 And that's in the letter that I had sent to you at your
20 request. And I sent it to you.

21 COMMISSIONER MCCARTHY: Right.

22 MS. SCHWARTZ: Dr. Kelly then authorized to survey 140
23 tribal communities and only 25 industries casinos in that number.
24 So that the survey, by necessity -- and that letter says, which I
25 got -- I was told then by Dr. Kelly was okay, that that changes
26 the focus because, even though we were collecting laws and

1 regulations from everywhere, we were only calling and surveying
2 25 industry gaming institutions in the entire country.

3 COMMISSIONER McCARTHY: I'll have to look at that. Our
4 conversations dealt only with how we were going to approach an
5 assessment of tribal government analysis.

6 And we recognized that to do a good analysis and not
7 just simply a compilation of all of the laws of tribal
8 governments, we would have to reduce the number. And that's how
9 we came up to 140.

10 I don't remember in any of our conversations unless it
11 was something separate with Tim Kelly --

12 MS. SCHWARTZ: No. Well, it was part of --

13 COMMISSIONER McCARTHY: -- that we were changing the --

14 MS. SCHWARTZ: -- the same conversation because we had
15 --

16 COMMISSIONER McCARTHY: Pardon?

17 MS. SCHWARTZ: It was part of the same conversation
18 because we had to get down from the total of 250.

19 COMMISSIONER McCARTHY: Right.

20 MS. SCHWARTZ: And we agreed on a number. And you
21 wanted 140. We agreed on a number. And so we ended up with --

22 COMMISSIONER McCARTHY: What happened to the other 110?

23 MS. SCHWARTZ: Well, by then we were in November.

24 COMMISSIONER McCARTHY: You mean that's the total of
25 federal, state, and tribal governments being more deeply
26 analyzed? Is that what you're --

1 MS. SCHWARTZ: One thing is just a report on laws. The
2 other is the practices.

3 COMMISSIONER McCARTHY: Got you.

4 MS. SCHWARTZ: And you were totally aware that --

5 COMMISSIONER McCARTHY: We're getting the first one.
6 We understand that. That covers everybody.

7 MS. SCHWARTZ: Right. Then when we went to the survey,
8 we were originally going to do 250. Then we had a meeting, which

9 -- COMMISSIONER LEONE: Two hundred, fifty what? I mean,
10 I don't know that that --

11 MS. SCHWARTZ: We were going to survey 250 gaming
12 institutions and their respective --

13 COMMISSIONER LEONE: Of all types?

14 MS. SCHWARTZ: Of all types.

15 COMMISSIONER LEONE: Okay.

16 MS. SCHWARTZ: And the original intent --

17 DR. POOL: These numbers refer to actual outlets, --

18 MS. SCHWARTZ: Right.

19 DR. POOL: -- for clarification.

20 MS. SCHWARTZ: Gaming outlets, right.

21 COMMISSIONER LEONE: So you mean an individual outlet
22 could be --

23 DR. POOL: Right. That is correct.

24 COMMISSIONER LEONE: Several of them could be --

25 MS. SCHWARTZ: It could be a racetrack.

26 COMMISSIONER LEONE: Okay.

27 MS. SCHWARTZ: It could be one --

1 COMMISSIONER LOESCHER: Madam Chairman?

2 CHAIRPERSON JAMES: Commissioner Loescher?

3 COMMISSIONER LOESCHER: Madam Chairman, you know, I'm
4 trying to be calm about this.

5 CHAIRPERSON JAMES: And we really do appreciate that.

6 COMMISSIONER LOESCHER: You know, the statute that
7 covers this Commission is very explicit about the information
8 database requests on state, federal, tribal, local laws dealing
9 with gaming, all forms of gaming.

10 On that point, my expectation was much before this
11 date, we would have a compilation, a listing, if you will,
12 accessibility to all the laws and regulations in America dealing
13 with every kind of gaming in America produced.

14 The law specifically said that we had to use your
15 agency, to work through your agency to get this done. The
16 statute is absolutely clear. I don't know where in the process
17 this all went awry, but here we are in March, almost April.

18 We started this process in July of last year with your
19 organization. My understanding from Native Americans is that
20 maybe in December, you sent out an inquiry to Native Americans.
21 We never saw that, but the tribal governments, the whatnot. We
22 haven't confirmed that.

23 We understand your contract was renegotiated by the
24 Commission. I don't understand what was renegotiated and what
25 the outputs are and what the money considerations were, but I
26 think those are of concern.

1 But then I'm reading this report, which you're about to
2 give, and I'm so upset and concerned about what you all are
3 doing. Then we get this survey of laws and regulations, which is
4 a total imbalance, 141 tribal operations versus 25.

5 Is it casinos that you're looking at or what is it,
6 when we know that 37 states are involved in lotteries, when we
7 know how many states are involved in the horse racing, how many,
8 you know, on and on?

9 There are laws for all of this stuff. Why are you
10 focusing on this kind of thing? It's a total imbalance in terms
11 --

12 MS. SCHWARTZ: It was not my call, sir.

13 COMMISSIONER LOESCHER: Well, I don't know if it's your
14 charge, but I'm sort of laying out to the Commission that this
15 thing started wrong. It was amended, and it's wrong. This
16 report they're about to give is wrong in terms of its balance.

17 And the products that at least this commissioner was
18 expecting to come out of this effort are nonexistent. And I'm
19 outraged by what's gone on here. Madam Chair, I respectfully
20 submit that something more than the committee on studies here
21 needs to deal with this matter.

22 MS. SCHWARTZ: Let me just say one thing. The
23 collection of citations of all the laws and regulations exists.
24 It's --

25 CHAIRPERSON JAMES: When will that be released to this
26 Commission?

1 MS. SCHWARTZ: Well, it was supposed to be on the
2 database in May. And you will get it on the database in May. I
3 had the collection of both state regulations and all the laws in
4 numerical. I had it in my office and believe I offered it to
5 your staff members when they came up a few weeks ago.

6 CHAIRPERSON JAMES: On database?

7 MS. SCHWARTZ: It is right now not a CD-ROM. That was
8 not promised until May. It is right. But I do have hard copies
9 of the collection of laws and regulation. And those I offered
10 them then.

11 CHAIRPERSON JAMES: And they said they didn't want it
12 or --

13 MS. SCHWARTZ: Well, they said at that point, I believe
14 --

15 DR. POOL: We are waiting for the database.

16 MS. SCHWARTZ: Did you all not make a copy of that? So
17 you took it and made copies? Yes.

18 COMMISSIONER BIBLE: What have you done? I can't
19 figure out what you've done. You've done a compilation of all
20 the laws and regulations --

21 MS. SCHWARTZ: We've done a compilation of all the laws
22 and --

23 COMMISSIONER BIBLE: -- of states, local governments,
24 and tribes.

25 MS. SCHWARTZ: Now, the tribal stuff is not yet
26 complete. We have collected as much as we could get from the
27 National Indian Gaming Commission. And then, as we agreed, we

1 sent a letter that, actually, the Commission or Dr. Kelly saw it,
2 I believe, or Doug Seay signed off.

3 COMMISSIONER BIBLE: Slow down for just a minute. Just
4 be responsive. So you've collected I assume all the compacts
5 between state and tribal governments.

6 DR. POOL: There are 24 compacts. We have a sampling
7 of ten compacts at this time.

8 COMMISSIONER BIBLE: Okay. So you've sampled the
9 compacts. You've gotten tribal gaming ordinances.

10 DR. POOL: To the extent that it is legally possible to
11 do so, tribal governments, that varies as to whether they will
12 release that. I believe that the Study Commission itself sent
13 out a letter requesting the tribes provide the ordinances. That
14 is the reason that it is not currently on CD-ROM, Commissioner
15 James, because we are waiting to see how much participation we
16 will receive from tribal governments with respect to the
17 ordinances and the compacts, whether they will be voluntary --

18 COMMISSIONER BIBLE: Okay. Now, you also collected
19 state law?

20 DR. POOL: That is correct.

21 COMMISSIONER BIBLE: And you've collected state
22 regulation?

23 DR. POOL: That's correct.

24 COMMISSIONER BIBLE: And you've collected federal law
25 probably as it relates to tribal gaming primarily because that's
26 the primary federal involvement.

27 DR. POOL: Right.

1 COMMISSIONER BIBLE: Now, then, you've also done a
2 survey to measure efficiency of the regulatory apparatus?

3 MS. SCHWARTZ: The survey was basically of regulatory
4 practices. And that's why I said that is not mandated.

5 COMMISSIONER BIBLE: I wasn't aware of the survey.

6 MS. SCHWARTZ: Yes.

7 COMMISSIONER BIBLE: So why don't you explain the
8 survey?

9 DR. POOL: If I may respond as the researcher?

10 COMMISSIONER BIBLE: Because I don't understand what --
11 the survey must have been intended to develop a major regulatory
12 efficiency, regulatory practices, something of that nature?

13 DR. POOL: What the survey -- the purpose or the
14 utility of the survey, irrespective or separate from the
15 compilation of the laws --

16 COMMISSIONER BIBLE: The compilation of the laws
17 doesn't tell you anything other than --

18 DR. POOL: Right, right. It's to determine the degree
19 to which the actual practices at gaming enterprises and/or local
20 state or tribal governments vary from the actual law. How are
21 the practices governing the daily operation of the institution
22 varying from what is written in law? What are the actual
23 policies? What are the tribal policies? What are the industry
24 policies that deal with the everyday workings of these
25 facilities?

26 COMMISSIONER BIBLE: Okay. Now, according to that
27 effort, then, will you have solicited information from, say, how

1 many employees you have involved in the regulatory process? What
2 are their --

3 DR. POOL: That is correct.

4 COMMISSIONER BIBLE: -- knowledge, skills, and
5 abilities in --

6 DR. POOL: That is what our survey has measured. And
7 that's what I was intending to present today.

8 COMMISSIONER BIBLE: I was aware of --

9 CHAIRPERSON JAMES: Let me ask a point of -- and I'll
10 turn it back over to you, Bill, after that. This is what --

11 COMMISSIONER BIBLE: Not a bad idea, though.

12 CHAIRPERSON JAMES: This is what the staff said they
13 got from you ten days ago, which is the state summaries.

14 MS. SCHWARTZ: They got I hope -- the state summaries
15 were just one part of the things they got from us. I offered
16 them a whole --

17 CHAIRPERSON JAMES: Who is "they"? Who from the staff
18 was over there?

19 MS. SCHWARTZ: Doug Seay, Kate Spilde, and Valerie were
20 up in my office --

21 CHAIRPERSON JAMES: Okay.

22 MS. SCHWARTZ: And I apologize for not remembering
23 Valerie's last name.

24 -- were up in my office. And I said I don't have a
25 finished report, but I have some of these materials. And they
26 included these state summaries, which should be put into one
27 format, rather than different, in which they are now.

1 They included this list of statutes that we have
2 compiled. That's a big folder that they took down with them and
3 a few sample compacts that I had and a couple of sample
4 ordinances.

5 DR. POOL: There is a model ordinance on which 90
6 percent of the ordinances are based. There is a recommended,
7 quote, unquote --

8 COMMISSIONER McCARTHY: Tribal ordinances.

9 DR. POOL: That is correct. That is correct.

10 MS. SCHWARTZ: And so I've given them that entire
11 thing. They took two days to copy it. It was more than just
12 this. And they got a --

13 CHAIRPERSON JAMES: John, please feel free.

14 MR. SHOSKY: I'm the deputy director. And I think at
15 the moment, maybe it's time for me to butt in here. We did
16 actually get a couple of notices as well. The only thing we
17 Xeroxed was this page.

18 COMMISSIONER LEONE: I just wanted to say that I hope
19 Belletire is being paid by the hour.

20 CHAIRPERSON JAMES: I do know that he has a flight this
21 afternoon, and I am sensitive to that.

22 MR. SHOSKY: I'll share this with you.

23 MS. SCHWARTZ: Certainly.

24 MR. SHOSKY: Madam Chair, we did send some people up a
25 few days ago. We're all in the same building. So you guys were
26 nice enough to meet with us. And we sent up a team of people.

1 Essentially, we just wanted to see how things were going, but as
2 well there's a regulation chapter draft that's due in a few days.

3 And so I asked if we could get some material so I could
4 get started absorbing information and trying to put something
5 together. And what we got was a state summary that you have,
6 which I did Xerox. And there were two notebooks that were about
7 this thick with a lot of material, which I looked through and I
8 just sent back up.

9 So the only thing we actually kept is that. And we did
10 have it for two days.

11 MS. SCHWARTZ: But you are more than welcome to the
12 state citations at any time you want them at the format they're
13 in right now.

14 COMMISSIONER BIBLE: Now, when are we going to get this
15 state survey or this survey? That must be Dr. Pool's.

16 DR. POOL: That's correct.

17 COMMISSIONER BIBLE: This survey now has been -- the
18 questions have been developed. There has been --

19 DR. POOL: The survey was developed. A sample was
20 drawn. We have surveyed -- part of my presentation would talk
21 you through our sample population. We have completed on the
22 order of 105 of them. We are sampling the bottom 36 in terms of
23 revenue categories. That is still an ongoing process.

24 COMMISSIONER BIBLE: And when are we going to --

25 DR. POOL: The majority of the survey is finished.

26 COMMISSIONER BIBLE: And when are we going to see all
27 of this data?

1 DR. POOL: They would like a report by March 29th, I
2 understand. Is that correct?

3 COMMISSIONER BIBLE: Them liking it and us getting it,
4 I mean --

5 DR. POOL: Excuse me, please?

6 COMMISSIONER BIBLE: When are we going to see it?

7 DR. POOL: I'm sorry?

8 COMMISSIONER BIBLE: I'm just curious as a procedure.
9 I mean, you then are going to present the results of this survey
10 at the end of this month, and you're going to meet that time
11 line?

12 DR. POOL: Well, I was going to explain to you today
13 what some of the generalizable findings are, in fact, we can make
14 at this time, having completed much of the survey.

15 COMMISSIONER McCARTHY: May we just ask, Madam Chair,
16 just to get back to the key point raised earlier by Mr. Loescher
17 and Mr. Wilhelm? I'm sorry. I don't have my notes in front of
18 me. So I'm having difficulty recalling the number 25 to pertain
19 to the federal government, which is one entity, I take it.

20 MS. SCHWARTZ: No, not federal government. Industry --

21 DR. POOL: Twenty-five are the industry outlets.

22 MS. SCHWARTZ: Industry outlets, not federal
23 government. There's only one federal government --

24 COMMISSIONER McCARTHY: Twenty-five non-tribal --

25 MS. SCHWARTZ: Non-tribal.

26 COMMISSIONER McCARTHY: -- gambling facility outlets.

27 MS. SCHWARTZ: Right.

1 COMMISSIONER McCARTHY: Tell me: How many states does
2 that represent?

3 MS. SCHWARTZ: It represents 12 in the sample we have
4 drawn.

5 COMMISSIONER McCARTHY: Represents 12 states?

6 MS. SCHWARTZ: Yes.

7 COMMISSIONER McCARTHY: And tell me the mix of types of
8 gambling.

9 MS. SCHWARTZ: The idea on the choice was to be as wide
10 as we possibly can. So we have casinos, card rooms, racing
11 operations.

12 COMMISSIONER BIBLE: Lottery outlets.

13 DR. POOL: Correct.

14 MS. SCHWARTZ: Yes, lottery outlets.

15 DR. POOL: These are all part of the prepared remarks
16 that we have that I think would allay many, Commissioner
17 Loescher, many of your --

18 COMMISSIONER LOESCHER: Madam Chair, it's not going to
19 allay my concerns.

20 DR. POOL: No. I mean, I can address some of the
21 points that you have raised in it.

22 COMMISSIONER LOESCHER: I'm outraged as I sit here. I
23 don't know who commissioned this kind of work. And we need to
24 understand from the outset before you give this report how this
25 came about. What business is it of yours how --

26 DR. POOL: It was over my objection --

27 COMMISSIONER LOESCHER: -- this business of --

1 DR. POOL: -- that these modifications were made.

2 COMMISSIONER LOESCHER: -- trying to match the laws and
3 the applicable effectiveness of the laws? What expertise do you
4 folks have? What is the questionnaire? Who commissioned this
5 questionnaire? All of those questions are germane to this
6 discussion.

7 CHAIRPERSON JAMES: What I'm going to do at this point
8 is to thank our deputy, ask him to have a seat over here. I'm
9 going to ask you, Leo, if you would walk us through the process
10 in October and November that was taken through the Research
11 Subcommittee, voted on unanimously by the entire Research
12 Subcommittee, just briefly and bring us up to speed as to how we
13 got to this particular point.

14 COMMISSIONER McCARTHY: Well, as I recall the
15 discussion with my steel trap mind, I think the feeling was at
16 the time that since we were the most ignorant about tribal
17 government laws and about their governance of gambling
18 facilities, that we did through two or three discussions arrive
19 at the conclusion that we looked at the first offering from ACIR.
20 We thought it was going to be very light in the tribal area.

21 CHAIRPERSON JAMES: "We" being?

22 COMMISSIONER McCARTHY: The Research Subcommittee. We
23 had the least knowledge in that area. And I think the
24 discussions that we had, John, Jim, and I, led us to try to back
25 off what was described as local governments because we didn't see
26 much fruit being borne examining cities and counties, and to
27 redirect that interest to tribal governments.

1 Now, what I'm puzzled about at this moment with my
2 steel trap mind is that I'm trying to recall the discussion we
3 had -- I can only remember the discussion on that part of it
4 which dealt with what were described in the original
5 recommendation as local government and tribal government.

6 And I don't remember changes in whatever it was we were
7 originally going to do in this area with facilities administered
8 largely by state government apparatus.

9 COMMISSIONER WILHELM: Madam Chair?

10 CHAIRPERSON JAMES: Certainly, Commissioner Wilhelm.

11 COMMISSIONER WILHELM: If I might try again from memory
12 to supplement Commissioner McCarthy's recollection? The statute
13 directs us to use ACIR for two purposes. One is a thorough
14 review and cataloguing of all applicable federal, state, local,
15 and Native American tribal laws, regulations, and ordinances that
16 pertain to gambling in the United States.

17 Second, to use ACIR for assistance in conducting a
18 number of other studies, part of which is beyond the actual laws,
19 regulations, and ordinances, policies, and practices with respect
20 to regulation.

21 My recollection of the information that was given to
22 the Research Subcommittee, I believe was through Dr. Kelly,
23 although I'm not certain of that, in the fall, was that ACIR
24 proposed to provide all of the laws, regulations, and ordinances
25 pertaining to federal, state, and local gaming operations but not
26 all of the laws, regulations, and ordinances pertaining to tribal
27 gaming operations.

1 With respect to the so-called survey about the, to use
2 a simplistic term, effectiveness of the regulatory process,
3 again, it's my recollection that ACIR proposed to provide us with
4 information about some, though not all, of the tribal operations.

5 I have a distinct recollection of extensive discussion
6 about the fact that since the compacts, the ordinances, the
7 regulatory bodies in the tribal gaming field vary considerably
8 one from another, which has as its underpinning the concept of
9 sovereignty, that a sample would not be an accurate
10 representation of the overall regulatory laws and practices and
11 that what we ought to have is all of them; that is, all federal,
12 all state, all local, and all tribal. And we were told that that
13 was not practical within the reach of the contract or the dollars
14 that were available or the time.

15 So I have the same recollection as Commissioner
16 McCarthy that the subcommittee said: Well, you know, the
17 question of local gaming regulation really is relatively minor.
18 So we have a resource and time problem. Let's not worry much
19 about that.

20 I don't know what correspondence may have gone back and
21 forth between Dr. Kelly and the ACIR, but beyond that, I do not
22 have any recollection that there was supposed to be a diminution
23 in the examination of non-tribal facilities.

24 My recollection is that the discussion was only about
25 the under-representation in the original ACIR proposal with
26 respect to tribal gaming outlets. And I don't recall anybody
27 suggesting that in order to accommodate what is still not a

1 complete examination of tribal gaming but apparently is only a
2 larger sample, that we were going to also reduce the examination
3 of non-tribal. I have no recollection of that point.

4 Now, I do recollect that we were told by Dr. Kelly
5 that, the subcommittee was told by Dr. Kelly that, we couldn't
6 within the resources and time available examine all of the tribal
7 regulations and compacts. Apparently this is being confirmed by
8 Dr. Pool.

9 That is, my understanding -- correct me if I'm wrong.
10 My understanding of what you said a moment ago is that at some
11 point in the future, which may not do us any good because the
12 report may have been written.

13 But, at any rate, at some point in the future you're
14 going to give us if I heard you right all of the federal and
15 state laws and regulations but only a sampling of the tribal laws
16 and regulations, ordinances, and compacts. Did I understand you
17 right?

18 DR. POOL: That is correct. And part of your
19 justification for the modification or the request for
20 modification was to be able to supplement for the fact that we
21 would not have that information. So you are correct in that.

22 COMMISSIONER WILHELM: Well, the bottom line from my
23 perspective as one member of the subcommittee is: one, I thought
24 we were supposed to get all of the laws, regulations, ordinances,
25 and compacts. I did not understand that we were only going to
26 get a sampling of those, both tribal and non-tribal.

1 Otherwise Commissioner Loescher is absolutely right.
2 There was a specific and very explicit directive in the statute
3 that we're supposed to have a catalogue of all of those, not some
4 of them.

5 So I'm disappointed to hear apparently that not only
6 are we going to get this too late to use it but also it's not
7 going to be complete with respect to federal, state, local, and
8 tribal laws, ordinances, and regulations. The statute is quite
9 directive on that point.

10 Now, this other question of how you assess the
11 efficiency or the effectiveness of the regulation and all of
12 that, the only discussion that I recall in that area is that no
13 segment of the gaming business should be under-represented.

14 I do not recall suggesting we should under-represent
15 one kind in order to partially deal with the under-representation
16 of another kind. I do not remember that at all.

17 But on the first point, since I don't have very much
18 hope about this assessment of the efficiency and effectiveness
19 any more, at a minimum, I do not see how we can not have a
20 complete set of all of the laws, regulations, ordinances, and
21 compacts, as we are directed to by the statute.

22 You said there are 24 tribal compacts in the country.
23 That sounds low to me. But, even if 24 is right, which doesn't
24 seem possible -- did I misunderstand you? DR. POOL: If I
25 may, I have told Dr. Kelly about the availability of the
26 ordinances and compacts. He's very well-aware of it. This may

1 be a legal issue that we are simply not qualified to resolve as
2 to whether --

3 CHAIRPERSON JAMES: What is the legal issue?

4 DR. POOL: Whether tribes need to provide their
5 ordinances.

6 COMMISSIONER BIBLE: Oh, you're talking about it's a
7 production issue that they have --

8 MS. SCHWARTZ: Right. NIGC --

9 DR. POOL: That's correct.

10 MS. SCHWARTZ: -- was only willing to provide a sample,
11 I believe.

12 DR. POOL: That's correct. I negotiated the release of
13 ten -- they have a model ordinance. I then negotiated the
14 release of ten ordinances that they believe to be representative
15 of the balance. However, it remains a legal question as to
16 whether this Commission would be entitled to that information.

17 COMMISSIONER BIBLE: But you have all of the compacts.
18 The compacts are executed by the states and I assume are public
19 documents from the state side of the equation.

20 CHAIRPERSON JAMES: Is that correct?

21 MS. SCHWARTZ: We do not have all of the compacts.
22 However --

23 COMMISSIONER BIBLE: Why?

24 CHAIRPERSON JAMES: Why?

25 MS. SCHWARTZ: Because at this stage, we haven't
26 received all the compacts. We have asked the tribes. The letter
27 that came from the Commission --

1 COMMISSIONER BIBLE: Why don't we ask the state?

2 DR. POOL: The request was made on behalf of the
3 Commission, --

4 MS. SCHWARTZ: Right. The request was made on behalf
5 --

6 DR. POOL: -- not us.

7 MS. SCHWARTZ: -- of the Commission. When I have tried
8 asking the states, a couple of them, I would say, -- I have not
9 asked all of them -- I got referred to the Federal Register.

10 COMMISSIONER BIBLE: They have to publish in the
11 Federal Register --

12 DR. POOL: That's correct.

13 COMMISSIONER BIBLE: -- in order for a compact to be
14 effective.

15 CHAIRPERSON JAMES: How hard is it to get the compacts?

16 COMMISSIONER BIBLE: Not very hard.

17 MS. SCHWARTZ: Well, if the tribes provide it, it's
18 very easy. If we get them, if I can get them from the states, I
19 will. I have absolutely no problem --

20 COMMISSIONER BIBLE: Well, the states are party --

21 MS. SCHWARTZ: -- calling every single state.

22 COMMISSIONER BIBLE: The states are party to all of
23 these compacts.

24 MS. SCHWARTZ: Yes.

25 COMMISSIONER BIBLE: And I've got to believe in all 48
26 states or however many states have them, there are probably
27 records that are public documents.

1 MS. SCHWARTZ: If I can get them, I will.

2 CHAIRPERSON JAMES: What's wrong with sending some
3 interns to the Federal Register and getting them all?

4 COMMISSIONER DOBSON: Madam Chairman?

5 CHAIRPERSON JAMES: I mean, I really want to know if
6 I'm missing something here.

7 MS. SCHWARTZ: We were having problems with NIGC not
8 willing to provide them and with tribes not sending them. So we
9 figured if we were going to -- the tribes got a letter. And if
10 they will send them, then every single piece of legislation, law,
11 regulation, policy document will be included in this database.

12 If I can get it anywhere else, I will also get a
13 database.

14 COMMISSIONER BIBLE: Well, NIGC may not even have them
15 because they're filed with the Secretary of Interior. He's a
16 signatory to all of these compacts.

17 MS. SCHWARTZ: NIGC filed with what?

18 COMMISSIONER DOBSON: Madam Chairman, as the --

19 DR. POOL: They denied us access to it.

20 COMMISSIONER DOBSON: -- third member of the Research
21 --

22 MS. SCHWARTZ: Right. Who was it?

23 CHAIRPERSON JAMES: Excuse me. Just a minute, ladies.
24 Commissioner?

25 COMMISSIONER DOBSON: As a third member of the Research
26 Committee, it's obvious that each of us has a little piece of the
27 memory of what took place. Let me tell you what --

1 DR. POOL: I do have it all in writing.

2 COMMISSIONER DOBSON: -- my view is so --

3 DR. POOL: So I can provide it to you.

4 COMMISSIONER DOBSON: As a matter of fact, Mr. Reed
5 just went out to get his minutes. It was in the Chicago meeting
6 that we discovered that your understanding was not the same as
7 ours. And you remember our disappointment at that time over what
8 you were going to provide regarding non-Indian gaming facilities.

9 At that time, you indicated to us that Dr. Kelly had
10 told you that what you had originally agreed upon was not going
11 to be possible with the amount of resources that you had been
12 provided.

13 There was some disagreement in the beginning about how
14 much money the Commission was going to give ACIR and that this
15 entire area was going to be explored. At least that was our
16 understanding. We got to the Chicago meeting and discovered that
17 you were not going to do that.

18 And Dr. Kelly then later confirmed that he had had some
19 conversations with you all that modified the --

20 DR. POOL: August 4th he modified our original
21 contract.

22 COMMISSIONER DOBSON: That's right. He's not here to
23 give us his side of that, but I think the confusion we're having
24 was over that issue in that Chicago meeting. And we came to
25 terms on it.

26 Leo, do you remember the interaction?

1 COMMISSIONER McCARTHY: Well, I remember what happened
2 was that the number of dollars that were being provided to ACIR
3 to do the study were cut in half. And that's when we started
4 discussing how we would reduce the scope of the contract.

5 The bit that's missing in my memory is how many
6 gambling facility outlets in different states we were going to
7 examine, different types of gambling facilities, that are
8 essentially governed by state law and the state regulatory
9 bodies.

10 MS. SCHWARTZ: Yes.

11 COMMISSIONER McCARTHY: Madam Chair, if I could just
12 sum up because may I respectfully suggest to everybody we get to
13 the report? And then we can ask a lot more questions.

14 As I understand it, in your 25 sample non-tribal
15 outlets, you have examined 25, a mix. They represent 12 states.

16 DR. POOL: Yes.

17 COMMISSIONER McCARTHY: All right. As to the tribal
18 casino operations, the Commission sent a letter to quite a number
19 -- I'm trying to remember the exact number -- 305. Three
20 hundred, five I think was the length of your list.

21 MS. SCHWARTZ: Two hundred, eighty-one because they
22 were based on a --

23 COMMISSIONER McCARTHY: That's right.

24 MS. SCHWARTZ: -- year prior report.

25 COMMISSIONER McCARTHY: That's right. And of those 305
26 or whatever the number is in that range, how many have you heard

1 back from? How many sent you voluntarily a copy of their
2 ordinances, their regulations, if any?

3 MS. SCHWARTZ: One.

4 COMMISSIONER McCARTHY: One? One?

5 MS. SCHWARTZ: Now, I will say the letter did not go
6 until --

7 COMMISSIONER McCARTHY: Let me ask a couple of more
8 questions.

9 MS. SCHWARTZ: Yes.

10 COMMISSIONER McCARTHY: If the letter didn't go to
11 everybody, we should have corrected that immediately and made
12 sure it did go to everybody. But if we sent out to a few
13 hundred, we got one willing to share with us, all right.

14 Then what I hear Dr. Pool saying is that subsequently
15 you entered into negotiations with I'm not sure who and got them
16 to send you some basic ordinances copied by many tribes but ten
17 other samples of ordinances adopted by various tribes. Did I get
18 that correctly?

19 DR. POOL: Yes. NIGC voluntarily provided these
20 materials to us.

21 COMMISSIONER McCARTHY: Okay. So, in essence, the
22 reason you don't have the compilation of tribal government laws
23 is you have been refused?

24 MS. SCHWARTZ: We have not yet because we have not yet
25 made follow-up phone calls, which were on my agenda for next
26 week.

1 COMMISSIONER McCARTHY: Wait a minute. What date did
2 the Commission letter go out?

3 MS. SCHWARTZ: The letter was going to go out after the
4 survey was almost finished so we don't put too much on this
5 thing. And the letter I believe went out -- I don't know.
6 Somebody in -- Doug just walked in. Maybe Doug knows which date
7 the letter went out.

8 MR. SEAY: Which letter?

9 MS. SCHWARTZ: The letter to the tribes requesting that
10 they submit all of this information.

11 COMMISSIONER McCARTHY: Laws and regulations.

12 MS. SCHWARTZ: Last month, right.

13 COMMISSIONER McCARTHY: Rough date.

14 MR. SEAY: Mid February, early February.

15 COMMISSIONER McCARTHY: Okay. And --

16 MS. SCHWARTZ: We had given them, I believe, or the
17 idea was to provide about three working weeks before we started
18 making follow-up phone calls.

19 COMMISSIONER McCARTHY: So that would have been roughly
20 the end of the first week in March?

21 MS. SCHWARTZ: Right.

22 COMMISSIONER McCARTHY: And I take it you have not
23 heard back from anybody --

24 MS. SCHWARTZ: As I said, I have actually correct this
25 information --

26 COMMISSIONER McCARTHY: -- or the Commission hasn't?

1 MS. SCHWARTZ: I was supposed to hear. I heard from
2 one person, who has said they have provided the information to
3 the Commission while testifying --

4 DR. POOL: In Seattle.

5 MS. SCHWARTZ: -- in Seattle, I believe. And that
6 person promised to send me a copy anyway.

7 COMMISSIONER McCARTHY: Okay.

8 MS. SCHWARTZ: Doug Seay heard from one person, the
9 Oneidas, I believe, who said he has their information, and he is
10 going to provide me that information. And I got one set of
11 complete information so far.

12 COMMISSIONER McCARTHY: So what we have is a mandated
13 congressional study to look at federal -- federal laws were
14 included.

15 MS. SCHWARTZ: Yes.

16 COMMISSIONER McCARTHY: State and tribal laws.

17 MS. SCHWARTZ: Yes.

18 COMMISSIONER McCARTHY: We will have a reasonable
19 sample that I think the members of the Research Committee had the
20 impression would be larger than 25 sample outlets. But we can
21 look through our notes and correspondence and try to verify where
22 we are in that.

23 And with the presence of Dr. Kelly, I think that will
24 help a great deal. And we cannot carry out the congressional
25 mandate as to tribal governments.

26 MS. SCHWARTZ: I believe we will carry out a lot more
27 of it than has been carried so far, but it will not, I believe,

1 ever be fully completed, as we can tell from the part that has --

2 COMMISSIONER McCARTHY: You have gotten one response to
3 over 300 letters from the Commission. So what is the reason for
4 your optimism?

5 MS. SCHWARTZ: Well, I say we have the samples that
6 have been provided by the National Indian Gaming Commission. We
7 have a few that were very easy to get that are not part of that
8 that I managed to download off the different state Web sites.
9 And every one of those that was available has been downloaded.

10 COMMISSIONER McCARTHY: All right.

11 MS. SCHWARTZ: So that makes it a larger --

12 COMMISSIONER McCARTHY: Okay. Now, that's the first
13 part of what you were going to do here.

14 MS. SCHWARTZ: Yes.

15 COMMISSIONER McCARTHY: The second part was assessing
16 approximately 140 tribes which would require a back and forth
17 conversation, analysis.

18 MS. SCHWARTZ: I have that. That's been done or that's
19 being done. That is not part of the same stuff. The survey
20 where Amy is was complete with about --

21 COMMISSIONER McCARTHY: You've had conversations with
22 140 different tribal governments?

23 DR. POOL: We have currently had conversations with
24 over 100 of the 140 --

25 COMMISSIONER McCARTHY: Tribal governments? Well,
26 that's fine.

27 DR. POOL: That is correct.

1 COMMISSIONER McCARTHY: Okay. All right.

2 DR. POOL: If I may correct one thing about the
3 beginning part? There are 161 compacts with 145 tribes in 24
4 states. Once you have a state, that's why the number 24, the
5 state company. You have a very good idea of that relationship
6 between the state and the tribal --

7 COMMISSIONER McCARTHY: So you have a good deal of
8 information regarding the application of the ordinances?

9 DR. POOL: Yes, sir, that's correct.

10 COMMISSIONER McCARTHY: What we're not certain of is
11 whether the model ordinance is adopted and a lot of the tribal
12 governments you've talked to.

13 DR. POOL: As I indicated before, that's over 90
14 percent, the degree to which the ordinance is --

15 COMMISSIONER McCARTHY: Do you have a list of tribal
16 governments that have adopted that model ordinance?

17 DR. POOL: I believe that's -- NIGC has that in their
18 compliance reports, do they not?

19 COMMISSIONER McCARTHY: Did it identify those as ones
20 who use the model ordinance?

21 DR. POOL: I cannot state for certain. I believe that
22 they do.

23 COMMISSIONER McCARTHY: And the other key question is
24 if you --

25 DR. POOL: Has a compact.

26 COMMISSIONER McCARTHY: If you took the top 20 or 30
27 biggest revenue generators, I assume they're much more complex,

1 much more sophisticated. It's likely they won't be using the
2 model ordinance. Foxwoods undoubtedly has a far more extensive
3 law.

4 Do you have from any of those major generators of
5 revenue among the tribal governments that do operate casinos?
6 Have you been able to get copies of any of those laws and analyze
7 them?

8 DR. POOL: I'm not certain. I do know the top 20
9 revenue generators. And if you'll give us a minute, Meredith may
10 be able to check to see from whom we have the ordinances relative
11 to the revenue categorization. We may well.

12 MS. SCHWARTZ: We have surveyed them all, even if we
13 did not get the written ordinance.

14 DR. POOL: That is correct.

15 MS. SCHWARTZ: Not a sample because, as Dr. Pool will
16 tell you when she does her presentation, the decision was to
17 focus on high revenue generators. So she has actually created a
18 census of the entire top three revenue-generating categories and
19 sampled the base.

20 DR. POOL: The population that we have surveyed totals
21 approximately 91 percent of the revenue generated by tribal
22 gaming.

23 CHAIRPERSON JAMES: Okay. At this point, what I'm
24 going to ask you to do is to hold questions. Let them work
25 through the remainder of their presentation. And then we'll have
26 questions.

1 COMMISSIONER BIBLE: Before you do that, I just want to
2 clarify and understand now. Ordinances, if I remember the
3 requirements under IGRA, whenever a tribe engages in Class 2 or
4 Class 3 gaming, they're required to adopt an ordinance and file
5 that ordinance or have that ordinance approved by the NIGC;
6 correct?

7 MS. SCHWARTZ: Yes.

8 COMMISSIONER BIBLE: And NIGC has taken the position
9 that those ordinances are not public record?

10 DR. POOL: I don't believe NIGC is taking that
11 position, sir. I believe it is the actual tribes. There is
12 pending litigation in state courts, I believe, over this issue at
13 this time.

14 COMMISSIONER BIBLE: The ordinance is not like the
15 secret to the atom bomb.

16 DR. POOL: This is correct.

17 COMMISSIONER BIBLE: They're simply governing
18 documents. They're very, very boring. I've heard a number of
19 them. I don't envy you.

20 DR. POOL: There are only a couple of tribes I --

21 COMMISSIONER LEONE: They have them, in China, I think.

22 (Laughter.)

23 COMMISSIONER BIBLE: They probably do. But the NIGC
24 probably couldn't figure out how to give them to them.

25 CHAIRPERSON JAMES: With that, please continue.

26 MS. SCHWARTZ: Mr. Bible, just one comment. We have a
27 letter on record and as does --

1 DR. POOL: Doug Seay.

2 MS. SCHWARTZ: -- Doug Seay that stated what they were
3 and were not willing to give us from NIGC and --

4 COMMISSIONER BIBLE: There's incredible. There's no
5 proprietary information in any of these ordinances. They're
6 simply how you do business.

7 MS. SCHWARTZ: I realize that. But, unfortunately, I
8 cannot get them from NIGC and the tribes will not respond to
9 requests for information -- and, unlike state law, Westlaw does
10 not have them online.

11 COMMISSIONER BIBLE: I understand.

12 CHAIRPERSON JAMES: Ms. Schwartz, please.

13 MS. SCHWARTZ: I'm going to try and shorten this as
14 much as I possibly can, but before I do, I really do want to
15 thank Dr. Pool and everybody at American University as well as
16 the Office of Justice Programs at AU and Dr. Dudley for agreeing
17 to rework the sample at a late date and still work with us on
18 that.

19 Anyway, I'd like to make a few short points on the
20 regulatory structure in the states. They're very sketchy at this
21 point. And then I will let Dr. Pool spend time on the survey,
22 which I believe is -- you've mentioned outside of the Indian
23 Gaming Regulatory Act and the regulation of Indian gaming, there
24 is very little federal gaming regulation. And that, of course,
25 may change. Internet gaming may force more federal regulation on
26 us as a multitude of laws before Congress indicates.

1 Some form of gaming exists in 48 states and the
2 District. A list is in the back. And the regulatory structure
3 governing that varies greatly among the states. But, as was also
4 mentioned, most non-tribal gaming regulation is being done on the
5 state level.

6 Almost every single state in which there is gaming has
7 a statewide gaming commission of some sort, meaning they either
8 have a gaming commission, a racing commission, a gaming board,
9 which includes all of those things, et cetera.

10 The exception is Alabama, which only has four
11 racetracks, all told. And they are, even though authorized by
12 statute, actually regulated by locally authorized commissions.
13 And North Carolina has no regulatory agency, not much gaming
14 either.

15 Most states regulate state lotteries separately than
16 they regulate the rest of their gaming activities. State lottery
17 commissions are usually appointed by the governor for specific
18 periods. And those vary among states. Some are staggered. Some
19 are not. And they need in some states to be confirmed by the
20 Senate or the legislature.

21 Other state gaming commissions fall into two broad
22 categories: one, states in which there is a consolidated gaming
23 commission that oversees all forms except maybe the lottery; and
24 other states which have different gaming commissions appointed
25 for different periods of time and often reporting to different
26 executive departments within the states. And those can be any

1 number of departments, from the Office of the Governor for some
2 harness racing to the Department of Agriculture.

3 Some states are extremely specific about the nominating
4 criteria for members of the Gaming Commission. For example, the
5 Gaming Policy Board in Connecticut consists of five members, and
6 they state that no more than three may be of the same political
7 party and, additionally, that four members must be experienced in
8 at least one of the following: law enforcement, computer styles,
9 law, accounting, corporate finance, economic or pari-mutuel
10 gaming. And two of these fields must be represented at any one
11 time.

12 Similarly, the Indiana Gaming Commission has political
13 affiliation requirements and also requirements on membership,
14 professional proliferation. And so one member must be
15 experienced in law enforcement, another a C.P.A., and there must
16 be one attorney.

17 Indiana law is interesting because it also requires or
18 assigns a geographical presentation so that the seven members,
19 three must represent counties that are contiguous to Lake
20 Michigan, three must represent counties contiguous to the Ohio
21 River, and one must represent a county which is neither.

22 The nature of the gaming commissions, of course,
23 varies, again, among states and depends on the prevalence of
24 gaming in the states and statutory legal requirements so that
25 some states -- and the full report will have this boring thing
26 saying how many paid people or not -- have fully paid
27 commissioners, some states have non-paid part-timers.

1 The role of the commissions, of the state gaming
2 commissions, varies, but in general they're authorized to issue
3 and renew gaming licenses, advise the governor on gaming policy,
4 and regulate, authorize gaming activities.

5 Some states also seek to ensure the integrity of gaming
6 legislation by explicitly regulating lobbying activities and
7 campaign contributions for gaming sources.

8 For instance, in Michigan, the Gaming Control and
9 Revenue Act has been amended to prohibit casino operators and
10 their employees from making political contributions to state
11 public officials.

12 And, additionally, in Michigan, the City of Detroit has
13 adopted a no-contact policy that forbids the communications
14 related to the outcome of merit of a proposal or development
15 agreement regarding a gaming operation with the mayor, mayoral
16 appointees, members of the city council, any city council
17 employee, et cetera. This no-contact period applies to all times
18 beginning with the RFP. The request for proposal period ends
19 through the final selection and licensing. Additionally, of
20 course, many states have lobbying registration laws which apply
21 to gambling as well.

22 All states with gambling activities establish licensing
23 and regulatory procedures, including fingerprinting and
24 background checks. Licensing periods vary among states. They
25 must be run from one to five years.

26 And within any single state, this licensing may differ
27 or the licensing period may differ between different forums so

1 that there may be a different license period for a river boat,
2 rather than a land-based casino.

3 The role of actual enforcement of gaming regulations,
4 site inspection activities, such as these, fall to different
5 bodies. But in many states, they do fall to the state police.

6 The example I use here is Louisiana, where while the
7 final responsibility for gambling falls to the Gaming Control
8 Board, it is the Office of State Police which performs all of the
9 activities, issuing permits to non-key gaming employees, renewal
10 of permits for video operators, et cetera. The police also
11 conduct the investigations that are required for those employees
12 that do need to be licensed by the Gaming Commission itself.

13 Funding arrangements also vary. Again if I return to
14 Louisiana, state police activities that are required for
15 inspection and supervision are funded by fees paid by the gaming
16 industry, which is pretty common.

17 However, the activities of the Louisiana Gaming Control
18 Board and of the State Attorney General, who acts as the Gaming
19 Control Board's lawyer, are actually funded by appropriations.
20 Those last year between them totalled all of 4.1 million.

21 On the high end of regulatory expenditure -- and these
22 numbers come directly from the GAO report -- last year or in
23 1997, New Jersey spent \$54 million. And Nevada spent about \$22
24 million. These are all funded by gaming operations.

25 As we mentioned, few states -- and I'm going to run
26 through them very fast -- do have some local rule. I mentioned

1 Alabama has regulation by a separate, independent local racing
2 commission.

3 Maryland lets a couple of its counties regulate
4 something so that Anne Arundel can regulate commercial bingo.
5 Michigan lets the City of Detroit play a role in the selection of
6 casino license recipients and also play a role in the percentage
7 of city residents that are employed at the casino and the
8 percentage of the revenue that casino operators will owe.

9 And Nevada, of course, has concurrent jurisdiction from
10 the state and local authorities. And there are active and
11 expensive gaming controls in cities and counties with major
12 effect.

13 Wyoming, a state with not much gaming, has its
14 charitable purpose gaming allowed but only approved by the
15 county. And when those activities are authorized, they're
16 locally regulated.

17 In other states are other forms of very minor local
18 regulation. In Texas, local elections are necessary for the
19 legalization and establishment of charitable bingo in the local
20 jurisdiction. And only after an election was successful can you
21 apply for a permit from the state.

22 New York allows basically every municipality to
23 authorize charitable gaming. California does basically the same
24 thing. Virginia, on the other hand, the only one I ever found,
25 went the other way. It took charitable gaming out of the hands
26 of local authorities in 1995 and organized a Virginia Charitable
27 Gaming Commission.

1 There is very little control of commercial gaming. One
2 notable exception is in the State of California. Once the
3 moratorium on new card rooms ends at the end of the year 2000 or
4 in January 1, 2001, you would need a majority vote of residents
5 in a city or county in order to allow the expansion of gaming.
6 And that would be by 25 percent only.

7 Arkansas demands statewide vote for the establishment
8 of horse racing, but that has to be followed within two years by
9 a county referendum. So you cannot introduce new facilities
10 without that.

11 Similarly, Tennessee, which has no horse racing right
12 now, allows one for each major part of the state. But that, too,
13 needs approval.

14 I am going to I think skip on just the short
15 introduction of IGRA in the interest of time and the belief that
16 everybody is aware of its requirement and let Amy, or Dr. Pool,
17 introduce the survey.

18 COMMISSIONER McCARTHY: Madam Chair?

19 CHAIRPERSON JAMES: Yes?

20 COMMISSIONER McCARTHY: Madam Chair, at Mr. Bible's
21 request, Mr. Belletire, who is going to make a presentation to us
22 soon, met with five or six other key state regulators and tried
23 to poll their thoughts on what the most essential parts are of
24 state regulation.

25 In his presentation to the Internet Subcommittee, he
26 was very honest that obviously it's not just the laws. It's the

1 emphasis. It's the spirit of the regulators. Some states may
2 emphasize some areas and others -- excuse me.

3 I'm not trying to give your entire presentation. But
4 it occurred to me as I was listening to you -- and we'll share
5 the blame for this. What we should have asked you to do -- and
6 the reason I'm raising this, I hope it's not too late to do --
7 is: Do the states you're looking at have the following things as
8 you examine the gambling facility or facilities in the 12 states
9 you're talking about? Do they have legislative clarity of
10 purpose? Do they have real independence of the regulatory
11 bodies?

12 No, you don't have to write them down. I'm going to
13 give you a copy of Mr. Belletire's statement.

14 MS. SCHWARTZ: Right.

15 COMMISSIONER MCCARTHY: Do they have independence in
16 the licensure decision-making? Do they really have the power to
17 examine suitability for licensure? Do they have competitive
18 proposals that are serious competitive proposals, no
19 under-the-table stuff, really on-board competitive proposals?

20 Do they have full disclosure of financial and political
21 relationships with those seeking a license? Do they have the
22 explicit power to investigate and approve contracts, the
23 regulatory bodies? Do they have real audit oversight powers?

24 Do they really control under-age gambling? Do they
25 have the power? And do they enforce it? Do they have a code of
26 conduct to cover ethical issues, which has real meaning?

1 Now, forgive me. The stuff you're giving, it's almost
2 like the compilation of laws. It's the mechanics. It's not the
3 heart, not so far anyway. I don't know what you're going to give
4 us out of the tribal gambling review, but it's not the heart of
5 it. It's the heart of it that we need.

6 I'm going to give you a copy of this and ask you to try
7 to apply these basic principles, which Mr. Belletire didn't say
8 it may not be all there is, but he and his colleagues said this
9 is most of it.

10 MS. SCHWARTZ: What I gave you right now, just for
11 clarity's sake, was basically a sort of a review of regulations
12 as they are. Dr. Pool will present this sample. And she will
13 present tribal information right now because we have done a much
14 larger percentage of --

15 COMMISSIONER MCCARTHY: I can appreciate that, but just
16 as important to us --

17 MS. SCHWARTZ: Right.

18 COMMISSIONER MCCARTHY: -- is getting it at the state
19 level.

20 MS. SCHWARTZ: I'm trying to answer. When we get to
21 the state level -- we have not done enough for me to be
22 comfortable presenting those 12 states and 25 institutions, which
23 were just the easier part. So we left it to the end of this. So
24 we were going to do all of those surveys. And I believe the
25 survey in itself will answer a lot of this.

1 So when you get that report, which will be as soon as
2 possible, there will be a lot more meat to these assertions than
3 there is currently.

4 COMMISSIONER McCARTHY: Good.

5 COMMISSIONER LANNI: Ms. Schwartz, I would suggest that
6 you be very careful. In some of the things you were just saying,
7 there is a number of inaccuracies.

8 Specifically, you stated that in the area of Michigan,
9 that Michigan has ceded some of the licensing responsibility to
10 the city. That's not correct. They ceded selection to the city,

11 -- MS. SCHWARTZ: Selection, yes.

12 COMMISSIONER LANNI: -- the licensing. But you've got
13 to be very careful because you're going to give us a report that
14 may also have inaccuracies. You also mentioned that Nevada the
15 gaming industry pays directly for the cost of regulations. It's
16 paid out of the general fund, not paid.

17 So you'd better check your information because if this
18 goes into a report, it will put some of the others into question.
19 You've got to be much more specific than you've been.

20 CHAIRPERSON JAMES: Dr. Pool?

21 DR. POOL: Thank you.

22 I want to state on the record that there were no
23 methodological reasons for the modification of our contract. And
24 it was at the objection of American University and my
25 methodologist that we altered our original chart.

26 COMMISSIONER BIBLE: Does that require a formal --

1 DR. POOL: Yes, sir, it did. And I have all of those
2 documents in writing. I objected very strenuously to the change
3 in scope of the work that I was to do.

4 My methodologist, Dr. Robert Dudley, had already drawn
5 our sample and written the survey at the time that these
6 modifications were requested. So, from there, let me tell you
7 what I was charged in writing with doing and how my results
8 correlate to that.

9 I was asked to do a survey looking at regulations and
10 enforcement of gaming activities across jurisdictions and to
11 determine the degree to which policies and practices deviate from
12 regulations.

13 Accordingly, I have two sets of respondents in my
14 survey population. One would be the tribal outlets. And the
15 other would be industry gaming. We conducted a phone survey of
16 the 25 non-tribal gaming outlets.

17 We have surveyed both outlets and regulators. They
18 represent various forms of gaming. They represent 12 states:
19 California, Colorado, Delaware, Illinois, Indiana, Iowa,
20 Louisiana, Mississippi, Michigan, Montana, Nevada, and New
21 Jersey. And all of them have significant gaming revenue. They
22 were all in the top quarter of gross wagering per capita for
23 1997.

24 My sample population for tribal gaming, NIGC very
25 graciously has cooperated rather extensively with me,
26 particularly Allen Fedman, the Director of Enforcement.

1 How we ascertained our sample population here, NIGC
2 provided five aggregate categories of revenue generation: A, B,
3 C, D, and E. Category A represents the top revenue producers, 20
4 top revenue producers, which represents 50.5 percent of total
5 revenue generated by tribal gaming. Category B is 25 operations.
6 That represents 21 percent of tribal gaming revenue; Category C,
7 60 operations, 20.1 percent of tribal gaming revenue.

8 If you look at Categories A, B, and C, that represents
9 over 90 percent of tribal gaming revenue. Our survey is mostly
10 complete pending some minor problems with getting a tribe to
11 agree to respond to our survey. We're trying to work that out
12 with individual tribes at this time.

13 Categories D and E are the low revenue-generating
14 categories. That represents Category D is 102 outlets, 8 percent
15 of total revenue. Category E is 54 outlets,.3 percent of total
16 revenue. We have sampled 36 outlets from this bottom category.

17 COMMISSIONER MOORE: From the bottom?

18 DR. POOL: I'm sorry. From the two bottom categories.

19 COMMISSIONER MOORE: Why did you want to do that?

20 DR. POOL: That is what the Commission requested from
21 me. That is not a methodological judgment on my part. That is
22 what I was asked to do. I don't necessarily want to do that.
23 That is what I was asked to do.

24 For tribal gaming surveys, our sample population, then,
25 includes a complete census of Categories A, B, and C, meaning
26 that the sample population is exhaustive and all-inclusive, the

1 top revenue establishments. And we sampled the 36 outlets in
2 Categories D and E.

3 Broadly speaking, the survey that we have conducted
4 seeks to measure the types of gaming at these establishments, the
5 gaming-specific regulation, gaming operation-specific regulation,
6 as opposed to, say, food and alcohol regulation, common types of
7 regulation that are in existence, the extent or degree of that
8 regulation, the perception of regulation versus the actual
9 regulation, and the cost of regulation.

10 Our survey instrument queried on the following topics:
11 largest source of gaming revenue, background checks,
12 fingerprinting, reporting of gaming receipts, maintenance of
13 records, licensing fee payments, on-site inspections, social
14 service expenditures, regulation, accuracy of equipment, training
15 for employees, ratio of employees to receipts, alternative
16 activities at gaming establishments, and other attractions
17 surrounding facilities.

18 This survey document went through 13 iterations between
19 ACIR. NGISC approved this survey document. We posed the phone
20 survey to our respondents. It takes us approximately six to ten
21 calls to get a tribe to respond.

22 To ensure the integrity of the ongoing research
23 process, I'll have to limit the degree to which I can be specific
24 and precise about the numbers for you, but I can give you some
25 general findings.

26 I would make the following assertions. This study is
27 remarkable in the degree to which it is simply unremarkable.

1 There aren't major complaints or suggestions for improvement by
2 either those being regulated, meaning the tribes, or by the
3 respondents, the actual regulators. Neither one has major
4 complaints or suggestions according to our survey.

5 With respect to the degree to which policies and
6 practices differ from the laws, generally speaking, tribal gaming
7 is more extensive. Tribal regulators do appear to be more
8 extensive than NIGC requirements. They're going beyond the
9 federal requirements.

10 The perceptions of overregulation are not borne out in
11 the actual data of respondents, tribal gaming outlets, but
12 neither is the perception of under-regulation borne out by the
13 data in the responses by the regulators.

14 I have specific discussions and examples based on the
15 questions. In the interest of time, I will leave it to you as to
16 whether you'd like me to get into specifics.

17 For example, you could ask me what fingerprinting
18 requirements are. I am able to tell you generally speaking what
19 our responses are. It may be about regulation, the cost of
20 regulation. I will, in the interest of time, make that your
21 choice as to whether you would like me to continue with this
22 specificity.

23 CHAIRPERSON JAMES: I think we will leave that to
24 commissioners to ask that level of detail if they desire.

25 DR. POOL: Thank you.

26 CHAIRPERSON JAMES: Are you done?

1 DR. POOL: If I may simply tell you what types of
2 categories so that you might be better informed to ask questions
3 should you desire that information?

4 We have information about sources of gaming revenue,
5 background checks, fingerprinting, reporting of gaming receipts,
6 the maintenance of records, licensing, fee payments, inspections,
7 social service expenditures, regulation, the accuracy of
8 equipment, training for employees engaged in gaming activities,
9 the ratio of employees to receipts, alternative activities of
10 gaming establishments.

11 With respect to regulation, I can answer questions
12 about the changes in reporting requirements, recordkeeping,
13 desired regulation that may not be on the books, what regulators
14 believe are the most important types of regulation in terms of
15 their utility, what regulations may be unnecessary, regulations
16 that are recommended to be added, areas to increase enforcement,
17 changes in regulatory laws or practices, the state role in
18 regulation, and the cost of regulation.

19 I will stop there and let you query me should you
20 desire.

21 CHAIRPERSON JAMES: Thank you.

22 Commissioner Wilhelm? And I am not going to call on
23 any others. So, Leo, just jump right in after that.

24 COMMISSIONER WILHELM: Since we've been all around here
25 this afternoon, I want to see if I can in brief summary form
26 understand where we are.

1 With respect to a cataloguing of federal laws
2 pertaining to gaming, will we have that in complete form?

3 MS. SCHWARTZ: Yes.

4 CHAIRPERSON JAMES: And on time?

5 MS. SCHWARTZ: On the database, which is supposed to be
6 May, yes.

7 CHAIRPERSON JAMES: Okay.

8 COMMISSIONER WILHELM: With respect to state laws and
9 regulations, we'll have all of those?

10 MS. SCHWARTZ: Yes.

11 COMMISSIONER WILHELM: And with respect to local laws
12 and regulations and ordinances, we'll have all of those, local
13 non-tribal?

14 MS. SCHWARTZ: I believe so, again, for those places
15 where is a local authority in gaming regulation.

16 COMMISSIONER WILHELM: Of course.

17 MS. SCHWARTZ: Right, right. We have not collected
18 every zoning regulation in every --

19 DR. POOL: If it pertains to the gaming industry.

20 COMMISSIONER WILHELM: That was my understanding.

21 MS. SCHWARTZ: Yes, yes.

22 COMMISSIONER WILHELM: So we'll have all of those?

23 MS. SCHWARTZ: Yes.

24 COMMISSIONER WILHELM: Okay. And then with respect to
25 tribal material, will we have all of the compacts? I understand
26 according to the Governors' Association testimony here that was

1 given to us in writing, there are 171 compacts in 24 states
2 covering 146 tribes. Will we have all of those?

3 MS. SCHWARTZ: You say 161, and they say 171.

4 DR. POOL: The numbers are different between NIGC and
5 the National Governors' Association.

6 COMMISSIONER WILHELM: A hundred, sixty-one. Will we
7 have all of those?

8 DR. POOL: It would be surprising to me if you did.
9 NGISC, the Study Commission, is requesting that information at
10 this time. We are in possession of ten compacts. Is that
11 correct?

12 MS. SCHWARTZ: No. We have more compacts.

13 DR. POOL: Oh, we have more compacts?

14 MS. SCHWARTZ: Yes. We have more compacts because we
15 have a whole bunch of them just --

16 COMMISSIONER WILHELM: Look, I don't want to belabor
17 this.

18 MS. SCHWARTZ: Yes. You have 24 --

19 COMMISSIONER WILHELM: Those are public documents state
20 by state.

21 DR. POOL: Yes. I have the 24 state documents.

22 COMMISSIONER WILHELM: Madam Chair, one of the tribal
23 representatives back there apparently has some light that he
24 feels he can shed on this. Would that be appropriate?

25 CHAIRPERSON JAMES: Please?

1 MR. ROGERS: One of the problems with the compacts is
2 with the Indian gaming establishments at the Bureau of Indian
3 Affairs.

4 DR. POOL: BIA did deny our request for that.

5 MR. ROGERS: Compacts are public record.

6 DR. POOL: Well, what they said was that there needed
7 to be --

8 COMMISSIONER MOORE: Yes, but also --

9 DR. POOL: Excuse me. If I may clarify? They said
10 that it was too expensive.

11 CHAIRPERSON JAMES: No, no, no. You respond to the
12 commissioners. You don't tell commissioners "No. Be quiet."

13 DR. POOL: I'm sorry.

14 CHAIRPERSON JAMES: Thank you.

15 DR. POOL: I was trying to clarify the point.

16 CHAIRPERSON JAMES: Commissioner Moore, please go
17 ahead.

18 COMMISSIONER MOORE: My sympathy goes with you.

19 DR. POOL: Thank you.

20 COMMISSIONER MOORE: I don't know how you get anything
21 out of the Indians. We have been trying to get just plain little
22 old C.P.A. reports out of them, but it's illegal for them to give
23 them to us.

24 DR. POOL: That's correct.

25 COMMISSIONER MOORE: It's illegal for them to do
26 anything. I've even had sources to tell me that the Indian

1 government doesn't even have to give a report to the tribal
2 members of the operation of a single casino.

3 Mr. Lanni would like to get by with not sending his
4 stockholders a report probably, but he's such a nice guy I know
5 he wouldn't. He would send it anyway. But these are things that
6 are disturbing not only to you but disturbing to us.

7 And to follow up on Mr. Wilhelm's remarks, as long as
8 we get all the information the best that you can on what you have
9 contracted to do, then I think that this Commission can operate.
10 But he's more organized than I am.

11 You know, I had an old hospital administrator one time
12 who said that you always try to do anything with a minimum of
13 confusement. And we've had a little bit more than a minimum of
14 confusement this afternoon.

15 DR. POOL: I concur.

16 COMMISSIONER MOORE: Don't you think?

17 DR. POOL: Yes, sir.

18 COMMISSIONER MOORE: But please go ahead and get all of
19 this information you can because we need it.

20 CHAIRPERSON JAMES: Let me just ask a question for
21 point of clarification. These are public documents. Is that
22 correct? And are --

23 DR. POOL: It's an issue of --

24 CHAIRPERSON JAMES: -- you informing this Commission
25 that BIA refuses to give public documents?

26 DR. POOL: Not necessarily. What it is is an issue of
27 cost. I believe the figure that we were quoted and we reported

1 to Dr. Kelly was something on the order of \$6,000. I don't
2 believe, Commissioner James, that it is an issue of refusing.
3 It's a question of what you're willing to pay for because of the
4 duplication cost.

5 CHAIRPERSON JAMES: Yes. Please go ahead.

6 DR. POOL: That's my understanding.

7 CHAIRPERSON JAMES: Wait a minute. I'm recognizing the
8 gentleman in the back.

9 COMMISSIONER DOBSON: Madam Chairman, we have a
10 contract with you that you're supposed to pay for it; right?
11 Isn't that in the agreement? You're going to get that
12 information for us? Isn't that what we've already paid for?

13 DR. POOL: Not in my contract.

14 COMMISSIONER DOBSON: If you know what I'm talking
15 about.

16 COMMISSIONER BIBLE: Subcontracting raises its ugly
17 head again.

18 CHAIRPERSON JAMES: I don't believe this.

19 COMMISSIONER McCARTHY: Dr. Kelly when he gets back can
20 look at the details of the contract.

21 CHAIRPERSON JAMES: All I can tell you is that as a
22 commissioner, it's a matter of public record, public information.
23 We contracted with you to get that information. And I believe
24 that it is inexcusable to be here and say that you can't get for
25 this Commission public information.

26 Thank you.

1 MS. SCHWARTZ: I will get every document that I can at
2 all get. And I've said that repeatedly.

3 COMMISSIONER WILHELM: So we may or may not have all of
4 the compacts, whether there are 161 or 171? With respect to
5 tribal gaming ordinances and regulations, will we have those?

6 MS. SCHWARTZ: Amy?

7 COMMISSIONER WILHELM: I'm talking about the catalogue
8 now.

9 MS. SCHWARTZ: Yes, the ordinances.

10 DR. POOL: As I stated before, we have 10 that
11 represent 90 percent of the ordinances.

12 COMMISSIONER WILHELM: So we won't have all the tribal
13 gaming ordinances and regulations.

14 DR. POOL: I don't believe so. The response that we
15 were given was that this was a legal matter. And we do not have
16 the funds to litigate over this issue.

17 COMMISSIONER BIBLE: You have 10 that represent 90
18 percent of the --

19 DR. POOL: That's correct, sir.

20 CHAIRPERSON JAMES: I'll recognize the gentleman.

21 COMMISSIONER BIBLE: Okay.

22 CHAIRPERSON JAMES: And I don't mind calling you "the
23 gentleman," but help me with your name again.

24 MR. ROGERS: In the interest of you making better use
25 of your time and making an informed decision, I've instructed
26 that Barry Brandon, the General Counsel for the NIGC, come over
27 here and amplify his response or non-response.

1 DR. POOL: Barry is the person with whom we worked on
2 this.

3 MR. ROGERS: He has said that it was his recollection
4 or he was searching his files for any correspondence between the
5 parties to my right with regard to what was requested, what was
6 not requested.

7 But with regard to the ten, with regard to the ten --
8 and I'm speaking. This is just hearsay because I'm only relying.
9 But what he told me was that they provided ten as a
10 representative, you know: Take a look at these. And, please, if
11 you need something more.

12 Now, I'm just speaking what he just told me over the
13 phone, but he --

14 CHAIRPERSON JAMES: But you instructed him to come over
15 here?

16 MR. ROGERS: I requested. I said: Barry, it would be
17 in the interest of this commission and the interest of the --

18 CHAIRPERSON JAMES: I thought you said you instructed
19 him.

20 MR. ROGERS: No, no, no. I made a simple request.

21 COMMISSIONER BIBLE: You represent one of the tribes,
22 don't you?

23 MR. ROGERS: No, I don't, Mr. Bible. I represent the
24 National Indian Gaming Association.

25 COMMISSIONER BIBLE: So you're with the association?

26 MR. ROGERS: That's right.

1 COMMISSIONER BIBLE: I noticed the word "instructed,"
2 too. That's sometimes --

3 MR. ROGERS: No. I want to make it absolutely
4 perfectly clear so --

5 CHAIRPERSON JAMES: That you misspoke when you said
6 "instructed."

7 MR. ROGERS: I think I said "requested" because how --

8 CHAIRPERSON JAMES: No. You said "instructed."

9 COMMISSIONER MOORE: Didn't you use to represent the
10 tribes, not the NIGC but --

11 MR. ROGERS: Let's not go down that road.

12 COMMISSIONER McCARTHY: I think we all heard it the
13 same way. You said it right.

14 COMMISSIONER WILHELM: He just misspoke. That's okay.

15 MR. ROGERS: That's right. Thank you.

16 COMMISSIONER WILHELM: I'm sorry. I'm not the Chair.
17 If I could just finish? Thank you.

18 CHAIRPERSON JAMES: Thank you very much.

19 COMMISSIONER WILHELM: If I could just finish just so I
20 understand where we are here? With respect to the non-tribal
21 gaming outlets that you're examining, did I understand you to say
22 that amongst the 25 you have facilities in the 12 states that you
23 listed?

24 DR. POOL: That's correct.

25 COMMISSIONER WILHELM: Just going by memory, I think
26 those are sort of the gaming states in terms of --

1 DR. POOL: That represents the top quartile of gross
2 wagering for 1997.

3 COMMISSIONER WILHELM: Okay. Top quartile of gross
4 wagering. Thank you.

5 DR. POOL: That's correct.

6 COMMISSIONER WILHELM: And then with respect to the
7 survey that you're doing of the tribal outlets, would it be your
8 belief that -- for the sake of discussion, if you are surveying
9 two non-tribal facilities, let's say, in Nevada, non-tribal,
10 would it be your belief that the results of that survey would be
11 more or less representative of the regulatory practices in that
12 state?

13 DR. POOL: Yes, sir, I would as well --

14 COMMISSIONER WILHELM: Since they have one regulatory
15 apparatus for that state?

16 DR. POOL: That's correct. For example, in the State
17 of California, where there are multiple state tribal outlets,
18 there may be one state regulator or regulatory body. There are
19 particular regulatory bodies that govern the various tribal
20 outlets.

21 COMMISSIONER BIBLE: We're not interested in California
22 because --

23 DR. POOL: Well, no, no.

24 COMMISSIONER WILHELM: Wait, wait, wait, please.

25 DR. POOL: I'm giving an example not based on the
26 actual survey, but speaking to your broader point that one

1 regulator may have control or jurisdiction over more than one
2 tribe or industry outlet.

3 COMMISSIONER WILHELM: So, for example, just since Mr.
4 Belletire is sitting next to you, if you were to survey two
5 non-tribal outlets in Illinois, am I right that you would think
6 that the results of that survey are probably representative of
7 the practices in Illinois, non-tribal?

8 DR. POOL: That is correct.

9 COMMISSIONER WILHELM: Okay. So, to that extent at
10 least, the 25 non-tribal outlets that you're surveying should be
11 representative of the practices and non-tribal regulatory
12 practices in those 12 states?

13 DR. POOL: That is correct.

14 COMMISSIONER WILHELM: Now, with respect to your survey
15 of the tribal outlets, the point has been made to us a number of
16 times in the Indian Gambling Subcommittee by tribal
17 representatives that while in the exercise of their sovereignty
18 tribes may reach an agreement with a state that cedes some or all
19 of the regulatory authority to the state, as in the Nevada
20 example -- Bill, correct me if I'm wrong. I believe that the
21 four tribal casinos in Nevada are regulated by the Nevada State
22 Gaming Control Board.

23 COMMISSIONER BIBLE: To a large extent, yes. It varies
24 from compact to compact.

25 COMMISSIONER WILHELM: In other cases, in other states,
26 we have been told in the subcommittee the state's role is less
27 and that --

1 DR. POOL: That is correct.

2 COMMISSIONER WILHELM: -- the role of the tribal
3 regulators is greater.

4 DR. POOL: That is correct.

5 COMMISSIONER WILHELM: So does it follow from that in
6 your opinion that in order to have the best possible picture
7 given the limitation on resources -- leaving aside the particular
8 numbers and the particular strata, does it make sense to you that
9 you would need to examine more tribal facilities than non-tribal
10 because of the diversity of regulation?

11 DR. POOL: I think it would present a more accurate
12 picture of the variance of regulatory structures in the United
13 States. In other words, the whole universe of regulatory
14 techniques that are out there would be more fully represented,
15 yes.

16 COMMISSIONER WILHELM: By examining more tribal outlets
17 because of the diversity of regulatory practice?

18 DR. POOL: In theory, the answer is yes. In practice,
19 the variance is not as great, but in theory, that assumption is
20 correct.

21 COMMISSIONER WILHELM: Okay. I just wanted to
22 understand that. Thank you.

23 CHAIRPERSON JAMES: I'm going to interrupt at this
24 point and thank you all very much for your presentation to this
25 point. I'm sure there will be additional questions that the
26 Commission has and additional opportunity for interaction.